

Charges for shipping are gross receipts subject to ROT when they are part of the selling price of the tangible personal property being sold. See, 86 Ill. Adm. Code 130.415. (This is a GIL).

August 30, 1999

Dear Xxxxx:

This letter is in response to your letter that we received July 2, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

COMPANY is in the printing business. We produce payment remittances for financial institutions. We periodically like to update our records and accordingly, would like to request a copy of the statutes from your state that apply to postage or shipping charges by common carrier being taxable or non-taxable if: (A) the product is shipped by common carrier to the purchaser or (B) shipped to a third party by the US Post Office at the request of the purchaser. In addition, please state if you consider it part of the purchase price if freight/mail charges are separately stated on the invoice.

As a technical proposition, handling charges represent a retailer's cost of doing business, and are consequently always included in gross charges subject to tax. See, 86 Ill. Adm. Code 130.410, enclosed. However, such charges are often stated in combination with shipping charges. In this case, charges designated as "shipping and handling," as well as delivery or freight/mail charges in general, are not taxable if it can be shown that they are both separately contracted for and that such charges are actually reflective of the costs of shipping. To the extent that shipping and handling charges exceed the costs of shipping, the charges are subject to tax. As indicated above, charges termed "transportation" or "freight" charges follow the same principle.

Whether freight or handling charges may be deducted by retailers in calculating Retailers' Occupation Tax liability depends not upon the separate billing of such shipping or handling charges but upon whether the charges are included in the selling prices of the property or are contracted for separately by purchasers and retailers. The best evidence that shipping charges were agreed to separately and apart from selling prices are separate and distinct contracts for freight/mail or shipping. Alternatively, documentation in the records of sellers that purchasers had options of taking delivery of the property at sellers' locations, for the agreed purchase prices, or having delivery made by sellers for the agreed purchase prices plus ascertainable delivery charges, may suffice. Please refer to 86 Ill. Adm. Code 130.415, enclosed.

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Mail order delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. To the extent that such charges exceed the costs of shipping, transportation or delivery, the excess charges are subject to tax. See Section 130.415(d).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk
Enc.